

Message

From: Kasi, Veronica [vbkasi@pa.gov]
Sent: 3/10/2017 6:11:14 PM
To: Batiuk, Rich [Batiuk.Richard@epa.gov]; DiPasquale, Nicholas [dipasquale.nicholas@epa.gov]; Lueckenhoff, Dominique [Lueckenhoff.Dominique@epa.gov]
CC: Whitcomb, Jill [jwhitcomb@pa.gov]; Schneider, Frank [fschneider@pa.gov]; Aunkst, Dana [daunkst@pa.gov]
Subject: FW: CBP Ag Workgroup Fatal Flaw Review of the Draft EPA Responses to Pennsylvania's Documentation on Manure Management Plans' Use of Book Values

Importance: High

It is obvious from the comments below that we will never convince MD or VA that PA's program is conservative enough to protect water quality to allow for us to get the credit we need in the Watershed Model for these plans. They do not understand our program, nor are they interested in taking the time to understand it. We have tried to explain this until we are blue in the face. As we discussed, I see no value in furthering this conversation. It is time to move on. Using data from a report this same workgroup created, "Animal Waste Management Systems, Recommendations from the BMP Expert Panel for Animal Waste Management Systems in the Phase 6 Watershed Model," the scale of agriculture in our state offers unique challenges. For example, some of the eye-opening statistics generated by the report about the scale of agriculture in Lancaster County alone, which dwarfs that of agriculture of other partner states in their entirety include:

- *Lancaster County, alone, has twice as many dairy cows as Maryland and 25 percent more than found grazing in all of Virginia.*
- *There are twice as many farms in the county than all of Delaware.*
- *And the number of layer chickens, beef cattle and pigs is more than in all the rest of the parts of Pennsylvania, Maryland, Virginia, Delaware and New York that are located in the Chesapeake Bay watershed.*

This information of the Bay watershed further highlights the vast differences between the states. This work from the Ag Workgroup reaches the same conclusion, illuminating brightly that each partner must be allowed to employ state-specific approaches to achieve our common goals. Pennsylvania has made great strides and progress over the last decade, working hand-in-hand with our agriculture community, to accelerate much-needed efforts towards the Chesapeake Bay goals. The water quality trend data reflect this success. We need you to follow through on your commitment to approve our documentation so that we can start on a positive footing with our agricultural community to add to that forward momentum within the Phase 3 WIP.

Do I need to be concerned, based on the feedback below, or are we still on track as promised to receive your formal approval by Monday so that we can announce this as part of our all-day Bay staff meeting?

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From: Whitcomb, Jill

Sent: Friday, March 10, 2017 12:13 PM

To: Kasi, Veronica <vbkasi@pa.gov>

Subject: FW: CBP Ag Workgroup Fatal Flaw Review of the Draft EPA Responses to Pennsylvania's Documentation on Manure Management Plans' Use of Book Values

FYI.

From: Long, Bobby (DCR) [<mailto:Bobby.Long@dcr.virginia.gov>]

Sent: Friday, March 10, 2017 11:56 AM

To: Rich Batiuk <batiuk.richard@epa.gov>; Gordon, Lindsey <Gordon.Lindsey@epa.gov>

Cc: Jason Keppler <jason.keppler@maryland.gov>; Sexton, Timothy (DCR) <Timothy.Sexton@dcr.virginia.gov>; Brosch, Chris (DDA) <Chris.Brosch@state.de.us>; Alisha Mulkey -MDA- <alisha.mulkey@maryland.gov>; Gill, Clint J. (DDA) <Clint.Gill@state.de.us>; Greg Albrecht <greg.albrecht@agriculture.ny.gov> <greg.albrecht@agriculture.ny.gov>;

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<mdubin@chesapeakebay.net>; Lindsay Dodd <lindsay.mdag@gmail.com>; kee@udel.edu

Subject: RE: CBP Ag Workgroup Fatal Flaw Review of the Draft EPA Responses to Pennsylvania's Documentation on Manure Management Plans' Use of Book Values

Rich,

I would like to follow up on Tim's comments. When taking another look at the data you sent yesterday, we noted the Pa lab data utilized to compare to book values were for samples collected over 19 years (1998 – 2016) That amounts to as few as 1.4 samples per year for a given animal type up to as many as 97 samples per year for a given animal type, on average. For instance, there were 242 liquid dairy samples (average of 13 per year) and 569 beef samples (average of 30 per year divided into 2 production types for 15 per year).

On numerous occasions, we have discussed how many samples are needed for reporting purposes. Thirty is a number that has often been considered a minimum population size. When discussing sample data for reports such as the PLS report, 30 per year was what was needed to include any given year's data in the report and in subsequent data submittals. While the PA data in this document is not going into the model, it is being used to determine the efficacy of the book values Pa is using to justify giving credit to manure management plans in the model. These values should be held to the same scrutiny as values actually used in the model if they are being used to justify an alternative to actual values. Where not enough data is available from Pa's lab to do so, we suggest incorporation of additional data from states within the partnership be used to validate the applicability of the book values.

Thank you for the opportunity to comment.

Bobby Long

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From: Sexton, Timothy (DCR)

Sent: Friday, March 10, 2017 11:13 AM

To: Alisha Mulkey -MDA- <alisha.mulkey@maryland.gov>; Rich Batiuk <batiuk.richard@epa.gov>; Gordon, Lindsey <Gordon.Lindsey@epa.gov>

Cc: Jason Keppler <jason.keppler@maryland.gov>; Brosch, Chris (DDA) <Chris.Brosch@state.de.us>; Gill, Clint J. (DDA) <Clint.Gill@state.de.us>; Greg Albrecht <greg.albrecht@agriculture.ny.gov> <greg.albrecht@agriculture.ny.gov>; Long,

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Subject: RE: CBP Ag Workgroup Fatal Flaw Review of the Draft EPA Responses to Pennsylvania's Documentation on Manure Management Plans' Use of Book Values

Rich

I also thank you very much for the opportunity to review and comment on this fatal flaw.

While I have no issue with this concept and theory of manure management plans, and Pa or any other state getting credit for same or a similar program at some point in time I also d have some issues.

If you take a look at the attached that Bobby Long put together , and assume that each farmer is in the top 20 percent as a producer as you would expect for the best large regulated farms in Pa. then for the crops selected, and th crops removal rates there is still over application of P being allowed. Second, these are plans that may or may not exist even though they are supposed to have one, third, you assume the farmer does not have a manure sample so he is allowed to use book values, which in my professiional opinion takes him out of the top 20 percent of managers and yields.

Next you assume that the farmer is always going to have current soils test, and assume that he is going to spread manure evenly across acres on his farm, when even on "Permitted" operations it have been a challenge to convince operators to hit the fields farther away from the barn and spread the manure where it is needed instead of where it is easy to dispose of.

In Virginia he have 1,100 Poultry operations, 890 of which are permitted. 83% of which have "Transfer" plans and no acres associated with them. The regulatory authority then is very happy that there is no acreage associated with the operation and it does not matter at all whether or not the fields around the operation are black or not as long as the operator can say he has a transfer plan.

We also have several hundred hundred horse operations in Virginia that charge big bucks to board and train but know nothing about manure management or care anything about manure management. But would just love to say they have a transfer plan.

Considering Pa wishes to just use ASABE numbers for Waste analysis, I wonder how many manure samples PSU has each year of each type to support the book values. While they may have enough to support the swine, it may be doubtful that they can support the book values for other animals.

I must concur with my partner from Md here that without considerable additional documentation and verification of minimal implementation, Pa deserves much in the way of credit for manure management plans, particularly for Phosphorus.

Bobby and I will be more than happy to discuss in much more detail if you wish.

I thank you for this opportunity

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From: Alisha Mulkey -MDA- [alisha.mulkey@maryland.gov]
Sent: Friday, March 10, 2017 10:40 AM

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To: Rich Batiuk; Gordon, Lindsey

Cc: Jason Keppler; Brosch, Chris (DDA); Gill, Clint J. (DDA); Greg Albrecht (greg.albrecht@agriculture.ny.gov); Sexton, Timothy (DCR); Long, Bobby (DCR); Whitcomb, Jill; J. Matthew Monroe; Mark Dubin; Lindsay Dodd; kee@udel.edu

Subject: Fwd: CBP Ag Workgroup Fatal Flaw Review of the Draft EPA Responses to Pennsylvania's Documentation on Manure Management Plans' Use of Book Values

Rich,

Thank you for the opportunity to review and comment on the attached document. MDA appreciates the thoroughness and details provided by PA to further this conversation. As such we offer the following comments:

1. PA's lab analyses and documentation does support the fact that book values for manure analysis and soil P are largely protective of water quality, i.e. requiring lesser application rates than site-specific data may allow. However, while MMPs may be written to include these more restrictive rate applications, an operator's compliance with an MMP is critical to verification of the nutrient management BMP. Future crediting of MMP acres for core-NM should include a documented method for assessing acres in compliance with MMPs.
2. MDA does not believe book values for manure application or soil P are sufficient for supplemental NM credits.
3. MDA supports DDA comments that recommend an upper threshold for soil P values whereby no additional P application is warranted
4. Related to #3, MDA does not find sufficient detail on PA's P Site Index (PSI) requirements (Attachment C, page 16). It appears a PSI assessment is voluntary for those acres subject to MMPs. Sufficient protection of water quality should include an assessment of P source and transport as defined by the PSI when soil P levels exceed 200 ppm.

Alisha Mulkey

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----- Forwarded message -----

From: **Gordon, Lindsey** <Gordon.Lindsey@epa.gov>

Date: Thu, Mar 9, 2017 at 7:30 AM

Subject: CBP Ag Workgroup Fatal Flaw Review of the Draft EPA Responses to Pennsylvania's Documentation on Manure Management Plans' Use of Book Values

To: "Alisha Mulkey (alisha.mulkey@maryland.gov)" <alisha.mulkey@maryland.gov>, "Jason D Keppler - MDA- (jason.keppler@maryland.gov)" <jason.keppler@maryland.gov>, "Amanda Barber (amanda.barber@cutlandswcd.org)" <amanda.barber@cutlandswcd.org>, FirstName LastName <greg.albrecht@agriculture.ny.gov>, "Matt Monroe (mmonroe@ag.state.wv.us)" <mmonroe@ag.state.wv.us>, Ann Swanson <aswanson@chesbay.us>, "Marel King (mking@chesbay.us)" (mking@chesbay.us)" <mking@chesbay.us>, "Brosch, Chris (DDA)" <Chris.Brosch@state.de.us>, "Gill, Clint J. (DDA)"

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Sent on behalf of Rich Batiuk, EPA-

CBP Agriculture Workgroup Members-

Attached please find the draft "EPA Responses to Pennsylvania's Documentation on Manure Management Plans' Use of Book Values." Nick DiPasquale, Chesapeake Bay Program Director, requested the draft EPA responses document be shared with the members of the CBP Agriculture Workgroup for your identification of any fatal flaws by 12 PM on Friday, March 10th. Apologies for the one day turnaround, but we need to get to a decision on crediting the Pennsylvania manure management plan acres as of the final sets of decisions needed to move forward with the final Phase 6 Chesapeake Bay Watershed Model Calibration.

Included the draft EPA responses document, you will find the:

- 1) "Guidance for Submission of Documentation Needed to Address the Phase 6 Nutrient Management BMP Language Agreed to by the Chesapeake Bay Program Partnership" in Attachment A;
- 2) "Process and Schedule for Submission of Documentation on Manure Management Plans' Use of Book Values Agreed to by Pennsylvania and EPA" in Attachment B; and
- 3) "Documentation on Manure Management Plans' Use of Book Values Agreed to by Pennsylvania and EPA" in Attachment C.

At the March 16 Agriculture Workgroup meeting, I will be briefing you all on the EPA guidance. And at the April 20 Agriculture Workgroup conference call, your Pennsylvania Department of Environmental Protection and State Conservation Commission colleagues will share the findings from their work with Penn State University and their conservation districts on compiling their documentation and lesson learned for use by all the jurisdictions.

Thanks, Rich

Rich Batiuk

Associate Director for Science, Analysis and Implementation

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